



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

ROBERT "BOB" BURNS - Chairman
ANDY TOBIN
BOYD DUNN
SANDRA D. KENNEDY
JUSTIN OLSON

APR 26 2019

DOCKETED BY

In the matter of

BAIC, Inc., a Texas for-profit corporation,

SoBell Corp, a Mississippi for-profit corporation,

Andrew Gamber, an Arkansas resident,

Mark Corbett, a California resident,

Upstate Law Group, LLC, a South Carolina limited liability company,

Candy Kern-Fuller, a South Carolina resident,

Smith & Cox, LLC (CRD #149088) an Arizona limited liability company,

William Andrew Smith (CRD #5638821) and Kimberly Ann Smith, husband and wife,

Christopher Spence Cox (CRD #5639015) and Beth Cox, husband and wife,

Respondents.

DOCKET NO. S-21044A-18-0071

DECISION NO. 77156

ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND ORDER FOR OTHER AFFIRMATIVE ACTION AGAINST RESPONDENTS BAIC, INC., SOBELL CORP AND ANDREW GAMBER

On March 30, 2018, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties, and Order for other Affirmative Action (the "Notice") against Respondents BAIC, Inc., SoBell Corp, Andrew Gamber and others.

1 On April 7, 2018, the Division served the Notice upon Respondent Andrew Gamber
2 (“Gamber”) by delivering a copy to him via certified mail, return receipt requested, at his last known
3 home address in Jonesboro, Arkansas. As of February 21, 2019, Gamber has not filed a request for
4 a hearing or an answer to the Notice.

5 On April 12, 2018, the Division served the Notice upon Respondent BAIC, Inc. (“BAIC”),
6 a Texas for-profit corporation, via a process server who left a copy with BAIC’s authorized agent for
7 service of process in Texas. As of February 21, 2019, BAIC has not filed a request for a hearing or
8 an answer to the Notice.

9 On May 21, 2018, the Division served a copy of the Notice upon Respondent SoBell Corp
10 (“SoBell”), a Mississippi for-profit corporation, by delivering three copies of the Notice to the
11 Secretary of State of Mississippi, who pursuant to Mississippi Code Annotated § 79-35-13, is
12 SoBell’s agent and attorney for service of process. The Mississippi Secretary of State’s Office, in
13 turn, sent copies of the Notice to SoBell at: (1) its last known business address in Ridgeland,
14 Mississippi; and (2) to SoBell’s incorporator, Gamber, at his last known address in Jonesboro,
15 Arkansas. As of February 21, 2019, SoBell has not filed a request for a hearing or an answer to the
16 Notice.

17 **I.**

18 **FINDINGS OF FACT**

19 1. Respondent BAIC is or was a Texas for-profit corporation with its principal place of
20 business in Gainesville, Texas. Records of the Texas Secretary of State reflect that on January 27, 2017,
21 BAIC’s charter was forfeited. BAIC has not been registered by the Commission as a securities salesman
22 or dealer.

23 2. Respondent SoBell is or was a Mississippi for-profit corporation with its principal place
24 of business in Ridgeland, Mississippi. Records of the Mississippi Secretary of State reflect that SoBell
25 has been dissolved. SoBell has not been registered by the Commission as a securities salesman or dealer.
26

4 4. Respondents BAIC, SoBell and Gamber may be referred to collectively as the
5 “Defaulting Respondents.”

7 5. This case involves a scheme by the Defaulting Respondents and others to sell veterans'
8 pensions and disability benefits to investors even though federal law expressly prohibits such sales.

6. Federal law declares that any agreement to purchase payments from a military pension or benefits is prohibited. 38 U.S.C. § 5301(a) (prohibiting assignment of veterans' benefits); 37 U.S.C. § 701 (prohibiting assignment of military retirement pay). The core purpose of these laws is to protect veterans' economic interests and ensure that they always have available to them their federal income stream. *See Porter v. Aetna Cas. & Sur. Co.*, 370 U.S. 159, 162 (1962) (38 U.S.C. § 5301 "should be liberally construed to protect funds granted by the Congress for maintenance and support of the beneficiaries thereof.").

7. Despite these prohibitions, since at least October 28, 2013, the Defaulting Respondents have made, participated in and/or induced the offers and sales of investments whereby veterans agree to sell the income streams from their military retirement or disability benefits payments for a period of months or years to investors in exchange for a discounted lump sum payment.

21 8. These income stream investments involve the sales of notes and constitute investment
22 contracts and/or evidences of indebtedness. These income stream investments are securities under
23 the Arizona Securities Act.

24 9. In offering the investments, the Defaulting Respondents failed to disclose to investors
25 that federal law expressly prohibits the sale of these income streams. *See* 38 U.S.C. § 5301(a); 37
26 U.S.C. § 701.

10. The Defaulting Respondents also failed to disclose multiple cease and desist orders and consent orders securities regulators in at least six other states entered against Respondent Gamber and his previous company for violations of those states' securities laws, including antifraud violations, arising from the sale of income stream investments involving veterans' pensions and disability benefits.

11. The Defaulting Respondents have also failed to disclose that since June 2013, the Arizona salesman (“Arizona salesman”) through whom they offered and sold these investments has been the subject of a federal lien for \$125,079 in unpaid taxes dating back to 2007 and 2008.

12. From October 28, 2013, through November 17, 2015, the Defaulting Respondents made, participated in and/or induced fifty-three (53) sales of income stream investments within or from Arizona totaling \$2,684,099.64.

The Operation of the Federal Anti-Assignment Acts

13. Federal law as provided in 38 U.S.C. § 5301(a) prohibits any purported sale or assignment of military benefits for consideration. It states in relevant part:

(1) Payments of benefits due or to become due under any law administered by the Secretary *shall not be assignable* except to the extent specifically authorized by law, and such payments made to, or on account of, a beneficiary shall be exempt from taxation, *shall be exempt from the claim of creditors*, and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, either before or after receipt by the beneficiary.

...

(3)(A) This paragraph is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive such benefit by payment of such compensation, pension, or dependency and indemnity compensation ... *such agreement shall be deemed to be an assignment and is prohibited.*

• • •

1 (C) Any agreement or arrangement for collateral for security for an
2 agreement that is prohibited under subparagraph (A) is also *prohibited and*
3 *is void from its inception*.

38 U.S.C. § 5301(a) (emphases added).

4 14. To similar effect, 37 U.S.C. § 701 states that “[a]n enlisted member of the Army,
5 Navy, Air Force, or Marine Corps may not assign his pay, and if he does so, the assignment is void.”

6 15. For purposes of 37 U.S.C. § 701, the term “pay” includes retirement pay. *See* 37
7 U.S.C. § 101(21).

8 16. This Order refers to 37 U.S.C. § 701 and 38 U.S.C. § 5301 as the Federal Anti-
9 Assignment Acts.

10 **The Structure of the Defaulting Respondents’ Investment Offerings**

11
12 17. The investments the Defaulting Respondents offered and sold involved a program
13 where a veteran receiving an income stream from a military retirement pension or disability benefits
14 (the seller) appointed BAIC or SoBell as his or her agent to sell part of the future payments from the
15 pension or disability benefits in exchange for a discounted lump sum payment.

16 18. The Defaulting Respondents, their Arizona salesman and his investment advisory firm
17 then matched an investor (the buyer) to purchase the veteran’s pension or disability benefit payments
18 for a specific term and represented that the investor would receive a specified rate of return, which
19 ranged between 5% and 8.25% depending on the particular investment.

20 19. To complete a sale when an investor agreed to invest, the Defaulting Respondents
21 used several form documents that their Arizona salesman presented to the investor in a “Closing
22 Book.” The Closing Book form documents were substantially identical regardless of whether BAIC
23 or SoBell was offering the investment.

24 20. None of the documents in the Closing Books that the Defaulting Respondents and
25 their Arizona salesman provided to investors disclosed that the Federal Anti-Assignment Acts
26 prohibit the sale or assignment of the veterans’ pension and disability payments.

21. Each Closing Book included a "Sales Assistance Agreement," which the veteran executed to appoint BAIC or SoBell as his or her agent to sell future payments from the veteran's pension or disability benefits "to one or more third party potential buyer(s), the identities of which are to be provided to [BAIC or SoBell] by independent parties [or contractor(s)]."

22. The Sales Assistance Agreements provided for the veteran to pay BAIC or SoBell a commission at the closing of the sale. The Arizona salesman's investment advisory firm also received fees or commissions when those sales closed.

23. Each Closing Book also included a "Purchase Assistance Agreement," which the investor executed to engage BAIC or SoBell and the Arizona salesman's investment advisory firm to assist in purchasing future payments from the veteran's pension or disability benefits. The Purchase Assistance Agreement defined the "Transaction Assistance Team" to include BAIC or SoBell and the Arizona salesman's investment advisory firm, and provided for those entities to receive commissions at closing.

24. The Purchase Assistance Agreements directed the investor to send his or her investment monies payable to the IOLTA account of a South Carolina law firm (the "Law Firm"), and the Law Firm was defined as the "Escrow Agent."

25. Marketing materials that the Defaulting Respondents' Arizona salesman presented to investors represented the Law Firm as "Buyer's Legal Representation." The materials stated in relevant part:

- [The Law Firm] is contracted by [the distributor] to provide legal, escrow and payment services for the exclusive benefit of the Buyer and [the distributor].
...
- [The Law Firm] ensures all documentation is complete and the purchased payments are directed to [the Law Firm's] Trust Account prior to closing.
- [The Law Firm] prepares and files a UCC-1 to "Perfect" the Buyer's security interest in the Seller's income.
- All Structured Income Asset monthly payments are processed in [the Law Firm's] Trust Accounts.

1 26. Each Closing Book also included a “Contract for Sale of Payments,” which the
2 veteran and the investor executed in counterparts.

3 27. The Contract for Sale of Payments recited: “Seller desires to sell certain fixed
4 payments arising from a certain structured asset once they have been distributed to and received into
5 an account of the Seller (‘the Payments’).” The “Source of the Payments” was identified as either
6 the veteran’s military pension or disability benefits.

7 28. The Contract for Sale of Payments provided: “Seller shall transfer and sell to Buyer
8 at Closing one hundred percent (100%) of Seller’s right, title and interest in and to the Payments;
9 provided however, that the Payment Source and underlying asset shall remain the sole property of
10 Seller and shall remain under the control of Seller.”

11 29. The provision for the veteran to “transfer and sell ... one hundred percent (100%) of
12 [his or her] right, title and interest in and to the Payments” contravened the Federal Anti-Assignment
13 Acts. *See* 38 U.S.C. § 5301(a) (“Payments of benefits due or to become due ... shall not be
14 assignable....”); 37 U.S.C. § 701 (“An enlisted member of the Army, Navy, Air Force, or Marine
15 Corps may not assign his pay, and if he does so, the assignment is void.”). Pursuant to those statutes,
16 the veteran, and not the investor, retained all rights and claims to the pension or benefits payments.

17 30. The Contract for Sale of Payments required the veteran to change the account where
18 he or she received the monthly pension or disability payments to a “designated escrow account at
19 [the Law Firm].” The Closing Book included a “Change of Payment Address Verification” executed
20 by the veteran showing that he or she had instructed the Defense Finance and Accounting Services
21 (“DFAS”), which pays monthly military pension payments, or the Veterans’ Administration, which
22 pays monthly disability benefits, to directly deposit future payments to a SunTrust Bank account
23 ending in Xx6119, which the Law Firm controlled.

24 31. As the escrow agent, after the Law Firm received a veteran’s monthly pension or
25 disability payment, the Law Firm disbursed the payment to the investor who had purchased that
26 veteran’s monthly payment.

1 32. The Section 10.2 of the Contract for Sale of Payments stated:

2
3 10.2. BOTH PARTIES INTEND THAT THE TRANSACTION(S)
4 CONTEMPLATED BY THIS CONTRACT SHALL CONSTITUTE
5 VALID SALE(S) OF PAYMENTS AND SHALL NOT CONSTITUTE
6 IMPERMISSIBLE ASSIGNMENT(S), TRANSFER(S), OR
7 ALIENATION OF BENEFITS BY SELLERS AS CONTEMPLATED BY
8 APPLICABLE LAWS; HOWEVER, CERTAIN RISKS PERSIST.

9 33. Section 10.2's representation of the transaction as "valid" and not an "impermissible
10 assignment" was misleading in light of the Defaulting Respondents' failure to disclose that the
11 Federal Anti-Assignment Acts prohibit the sale or assignment of the pension and disability payments
12 at issue.

13 34. Each Closing Book also included a "Disclosure of Risks Statement," which the
14 investor had to sign. The Disclosure of Risks Statement stated in relevant part:

15 Restrictions On Assignability/Collectability. Pension stream investments
16 fall under regulatory restriction (sic) that restricts the assignment of the
17 scheduled payments due thereunder.... Consequently, this transaction is a
18 purchase of a contractual right to a payment obligation and not the payment
19 per se. Although certain courts have held transactions of this nature to be
20 enforceable even in the presence of an anti-assignment clause, there is no
21 assurance that a future court would permit enforcement of payment rights
22 under this arrangement.

23 35. The representation that regulations "restrict[]" the assignment of pension and
24 disability payments was misleading in light of the Defaulting Respondents' failure to disclose that
25 the Federal Anti-Assignment Acts do not just "restrict" but prohibit their assignment. *See* 38 U.S.C.
26 § 5301(a) ("Payments of benefits due or to become due ... shall not be assignable...."); 37 U.S.C. §
27 701 (prohibiting assignment of military retirement pay).

28 36. The representation that, "certain courts have held transactions of this nature to be
29 enforceable" but a future court might not, was misleading in light of the failure to disclose that several
30 courts applying the Federal Anti-Assignment Acts have held transactions of this nature to be

unenforceable. *See Dorfman v. Moorhous*, 108 F.3d 51, 55-56 (4th Cir. 1997) (officer's attempted assignment of retirement pay was invalid pursuant to 37 U.S.C. § 701); *In re Dunlap*, 458 B.R. 301, 325 (Bankr. E.D. Va. 2011) (same); *In re Webb*, 376 B.R. 765, 767-68 (Bankr. W.D. Okla. 2007) (same); *In re Price*, 313 B.R. 805, 809 (Bankr. E.D. Ark. 2004) ("[A] sale of [the service member's] future pension rights is specifically prohibited by federal law.").

37. The Disclosure of Risks Statement also stated in relevant part:

Non-receipt of Scheduled Payment/Collections. Non-receipt of payment could occur for a number of reasons ranging from administrative delays ... [to] a diversion. A diversion occurs when a seller redirects any scheduled payment previously sold to Buyer to any entity other than the Buyer in violation of the Seller's contractual agreements with the Buyer. The Transaction Assistance Team considers a diversion to be a default by the Seller.... Buyer's ability to enforce judgments, realize success in the garnishment process and prevail in the redirecting of the payments cannot be guaranteed.

38. The purported disclosure about the risk that a veteran might re-direct the pension or disability benefits back to himself was misleading in light of the Defaulting Respondents' failure to disclose that the Federal Anti-Assignment Acts prohibit the sale or assignment of the pension and disability payments in the first place.

39. The purported disclosure about the potential for the investor to obtain and collect a judgment against the veteran who re-directed his benefits payments to himself was misleading in light of the Defaulting Respondents' failure to disclose that disability benefit payments are "exempt from the claim of creditors." 38 U.S.C. § 5301(a).

40. Collectively, the Closing Book documents represented the investment to be a binding and legally enforceable contractual obligation for the veteran to pay and the investor to receive future payments from the veteran's pension or disability benefits in exchange for the upfront lump sum payment to the veteran.

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The Failure to Disclose Prior Orders Against Gamber and His Companies

41. Respondent Gamber, who is or was the President of BAIC and the incorporator of SoBell, has been the subject of multiple orders by state regulators for his or his companies' violations of insurance and securities laws and regulations.

42. On April 4, 2008, the Arkansas Insurance Commissioner entered a Consent Order against Gamber, under which his insurance producer's license was suspended for two years and he was ordered to pay an administrative penalty. The Consent Order arose from four consumer complaints against Gamber in 2006 alleging he: (i) made false or fraudulent statements; (ii) forged a document; (iii) used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness, lack of good personal or business reputation or financial irresponsibility; and (iv) churned business by replacing an existing insurance policy with one that was not for the benefit of the insured.

43. On July 1, 2009, the Arkansas Insurance Commissioner entered another Consent Order against Gamber, under which he surrendered his Arkansas insurance producer's license, agreed he could not reapply for licensure for three years, and agreed to pay a \$25,000 administrative penalty. This Consent Order arose from two consumer complaints against Gamber in 2009 alleging he: (i) made false or fraudulent statements; (ii) used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness, lack of good personal or business reputation or financial irresponsibility; and (iii) churned business by replacing an existing insurance policy with one that was not for the benefit of the insured.

44. From October 28, 2013, through November 17, 2015, the Defaulting Respondents made, participated in and or induced the offers and sales of BAIC and SoBell income stream investments within or from Arizona.

45. During that timeframe, Gamber and his previous company, non-party VFG, LLC, which was also known as Voyager Financial Group, LLC ("VFG"), were the subjects of the following cease and desist orders and consent orders entered by securities regulators in six states for securities

1 violations arising from the sale of income stream investments involving veterans' pensions and
2 disability benefits:

3 a) On April 22, 2013, the Arkansas Securities Commissioner entered a Cease and
4 Desist Order against Gamber and VFG for selling unregistered securities involving military
5 retirement income streams. The Cease and Desist Order found that since February 28, 2012, Gamber
6 had been the managing member of VFG and owned between 32% and 100% of the company.

7 b) On September 20, 2013, the Iowa Insurance
8 Commissioner entered a Consent Order under which Gamber and VFG were ordered to cease and
9 desist from violating Iowa's securities laws with respect to the sale of income stream contracts.

10 c) On December 10, 2013, the Securities Division of the New Mexico Regulation
11 and Licensing Department entered a Cease and Desist Order against VFG. The Cease and Desist
12 Order found that VFG, through its sales agents, deceived investors by describing the sale of income
13 streams from veterans' pensions and disability benefits as valid and permissible transactions, and by
14 omitting the material fact that the assignment of these income streams is prohibited under 37 U.S.C.
15 § 701 and 38 U.S.C. § 5301.

16 d) On March 18, 2014, the Arkansas Securities Commissioner entered a Second
17 Cease and Desist Order against VFG. The Second Cease and Desist Order found that VFG had
18 violated the registration and antifraud provisions of the Arkansas Securities Act by among other
19 things:

- 20 (i) Representing in the Contract for Sale of Payments that "Seller shall transfer
21 and sell to Buyer at Closing one hundred percent (100%) of Seller's right, title
22 and interest in and to the Payments." The Second Cease and Desist Order
23 found, "This is clearly a misstatement in view of federal laws prohibiting the
24 assignment or transfer of federal pensions." Second Cease and Desist Order
25 at ¶ 8.

1 (ii) Representing in Section 10.2 of the Contract for Sale of Payments that the
2 transaction was “valid” and not an “impermissible assignment,” when the
3 Federal Anti-Assignment Acts prohibited the sale or assignment of the pension
4 and benefits payments at issue. Second Cease and Desist Order at ¶ 9.

5 (iii) Misstating “federal laws and court cases that clearly prohibit the assignment
6 or transfer of federal pension payments sold by VFG....” Second Cease and
7 Desist Order at ¶ 9.

8 e) On May 12, 2014, Pennsylvania’s Department of Banking and Securities
9 entered a Consent Order against VFG, which Gamber signed on VFG’s behalf. The Consent Order
10 found that VFG willfully violated the antifraud provision of Pennsylvania’s Securities Act of 1972
11 by failing to disclose: (i) the identity and relevant background of its corporate officers, and (ii) that
12 the assignment of military pensions is prohibited by federal law.

13 f) On June 23, 2014, the Arkansas Securities Commissioner entered a Consent
14 Order against VFG and Gamber, which Gamber signed. The Consent found that VFG and Gamber
15 had violated the registration provisions of the Arkansas Securities Act, and that VFG had also
16 violated that Act’s antifraud provision with respect to the sale of income stream investments.

17 g) On August 26, 2014, Florida’s Office of Financial Regulation entered a Final
18 Order against VFG for selling military retirement income streams as unregistered securities.

19 h) On November 7, 2014, California’s Department of Business Oversight entered
20 a Desist and Refrain Order against VFG for selling military retirement income streams as
21 unregistered securities and in violation of the antifraud provision in Section 25401 of the California
22 Corporate Securities Law of 1968.

23 46. The Defaulting Respondents and their Arizona salesman failed to disclose to investors
24 any of the foregoing consent orders and cease and desist orders against Gamber and/or his previous
25 company, VFG, for insurance and securities law violations.
26

1 47. It was materially misleading to omit the existence of these cease and desist orders that
2 prohibited Gamber and his previous company from selling securities in Arkansas, Iowa, New
3 Mexico, Pennsylvania, Florida and California based on income streams from veterans' pensions and
4 disability benefits. *See, e.g., S.E.C. v. Merchant Capital, LLC*, 483 F.3d 747, 771 (11th Cir. 2007)
5 ("The existence of a state cease and desist order against identical instruments is clearly relevant to a
6 reasonable investor, who is naturally interested in whether management is following the law in
7 marketing the securities.").

8 **The Failure to Disclose an Unpaid \$125,079 Federal Tax Lien Against**
9 **the Defaulting Respondents' Arizona Salesman**

10 48. On June 25, 2013, the Internal Review Service ("I.R.S.") recorded a Notice of Federal
11 Tax Lien in Pima County, Arizona against the Defaulting Respondents' Arizona salesman for
12 \$125,079 in unpaid income taxes from 2007 and 2008.

13 49. No release or satisfaction of the I.R.S.'s \$125,079 lien against the Arizona salesman
14 has been recorded in Pima County, Arizona.

15 50. The Defaulting Respondents and their Arizona salesman failed to disclose to investors
16 the existence of the I.R.S.'s \$125,079 lien.

17 51. It was materially misleading to fail to disclose the I.R.S.'s unsatisfied \$125,079 lien
18 against the Arizona salesman because the lien raises questions as to his financial competence, skill,
19 and judgment.

20 **II.**

21 **CONCLUSIONS OF LAW**

22 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
23 Arizona Constitution and the Securities Act.

24 2. Respondents BAIC, SoBell and Gamber made, participated in and/or induced the offer
25 and sale of securities in the form of notes, investment contracts and evidences of indebtedness within
26

1 or from Arizona, within the meaning of A.R.S. §§ 44-1801(16), 44-1801(22), 44-1801(27) and 44-
2 2003(A).

3 3. Respondents BAIC, SoBell and Gamber violated A.R.S. § 44-1841 by making,
4 participating in and/or inducing the offer and sale of securities that were neither registered nor exempt
5 from registration.

6 4. Respondents BAIC, SoBell and Gamber violated A.R.S. § 44-1842 by making,
7 participating in and/or inducing the offer and sale of securities while neither registered as dealers or
8 salesmen nor exempt from registration.

9 5. Respondents BAIC, SoBell and Gamber violated A.R.S. § 44-1991 by directly or
10 indirectly (a) employing a device, scheme, or artifice to defraud, (b) making untrue statements or
11 misleading omissions of material facts, and (c) engaging in transactions, practices, or courses of
12 business that operate or would operate as a fraud or deceit. Specifically, BAIC, SoBell and Gamber:

- 13 a. failed to disclose to investors that the Federal Anti-Assignment Acts prohibit the
14 sale or assignment of veterans' pension and disability payments;
- 15 b. misrepresented in the Contract for Sale of Payments that the transaction was
16 "valid" and not an "impermissible assignment" while failing to disclose the impact
17 of the Federal Anti-Assignment Acts;
- 18 c. misled investors by stating that regulations "restrict[]" the assignment of pension
19 and disability payments when the Federal Anti-Assignment Acts do not just
20 "restrict" but prohibit their assignment;
- 21 d. represented that "certain courts have held transactions of this nature to be
22 enforceable" but a future court might not, while failing to disclose that several
23 courts applying the Federal Anti-Assignment Acts have held transactions of this
24 nature to be unenforceable;
- 25 e. misled investors about the risk that a veteran might re-direct the pension or
26 disability benefits back to himself by failing to disclose that the Federal Anti-

1 Assignment Acts prohibit the sale or assignment of the pension and disability
2 payments in the first place;

3 f. misled investors about the potential for an investor to obtain and collect a
4 judgment against a veteran who re-directed his disability benefits payments to
5 himself by failing to disclose that such payments are “exempt from the claim of
6 creditors.” 38 U.S.C. § 5301(a).

7 g. deceived investors with the illusion of legality by representing the Law Firm as
8 “Buyer’s Legal Representation” and using the Law Firm’s IOLTA account to
9 deposit the investor’s investment funds and to distribute the veteran’s monthly
10 payments;

11 h. failed to disclose to investors the numerous consent orders and cease and desist
12 orders against Gamber and/or his previous company, VFG, for insurance and
13 securities law violations; and

14 i. failed to disclose to investors that since June 25, 2013, their Arizona salesman has
15 been the subject of an I.R.S. lien for \$125,079 in unpaid taxes dating back to 2007
16 and 2008.

17 6. The conduct of Respondents BAIC, SoBell and Gamber is grounds for a cease and
18 desist order pursuant to A.R.S. § 44-2032.

19 7. The conduct of Respondents BAIC, SoBell and Gamber is grounds for an order of
20 restitution pursuant to A.R.S. § 44-2032.

21 8. The conduct of Respondents BAIC, SoBell and Gamber is grounds for administrative
22 penalties under A.R.S. § 44-2036.

23 9. Gamber directly or indirectly controlled BAIC and SoBell within the meaning of
24 A.R.S. § 44-1999. Therefore, Gamber is jointly and severally liable to the same extent as BAIC and
25 SoBell for their violations of A.R.S. § 44-1991.

III.**ORDER**

THEREFORE, on the basis of the Findings of Fact, and Conclusions of Law, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Respondents BAIC, SoBell and Gamber, and any of those Respondents' respective agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondents BAIC and Gamber shall jointly and severally with all Respondents against whom orders are entered under the Docket No. S-21044A-18-0071 pay restitution to the Commission in the principal amount of \$1,954,649.36 as a result of the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that Respondents SoBell and Gamber shall jointly and severally with all Respondents against whom orders are entered under the Docket No. S-21044A-18-0071 pay restitution to the Commission in the principal amount of \$729,450.28 as a result of the conduct set forth in the Findings of Fact and Conclusions of Law. Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission.

IT IS FURTHER ORDERED that the restitution ordered in the preceding paragraphs will accrue interest, as of the date of the Order, at the rate of the lesser of (i) ten percent per annum or (ii) at a rate per annum that is equal to one per cent plus the prime rate as published by the board of governors of the federal reserve system in statistical release H. 15 or any publication that may supersede it on the date that the judgment is entered.

1 Any verified investment payment from a Respondent to an investor confirmed by the Director
2 of Securities shall be credited as a set-off.

3 The Commission shall disburse the funds on a pro-rata basis to investors shown on the records
4 of the Commission. Any restitution funds that the Commission cannot disburse because an investor
5 refuses to accept such payment, or any restitution funds that cannot be disbursed to an investor
6 because the investor is deceased shall be disbursed on a pro-rata basis to the remaining investors
7 shown on the records of the Commission. Any funds that the Commission determines it is unable to
8 or cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

9 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Respondents BAIC, SoBell,
10 and Gamber shall each pay an administrative penalty in the following amounts as a result of the
11 conduct set forth in the Findings of Fact and Conclusions of Law: \$50,000 for BAIC; \$50,000 for
12 SoBell; and \$100,000 for Gamber. Payment is due in full on the date of this Order. Payment shall
13 be made to the "State of Arizona." Any amount outstanding shall accrue interest as allowed by law.

14 IT IS FURTHER ORDERED that the administrative penalties ordered in the preceding
15 paragraph will accrue interest at the rate of the lesser of (i) ten percent per annum or (ii) at a rate per
16 annum that is equal to one per cent plus the prime rate as published by the board of governors of the
17 federal reserve system in statistical release H. 15 or any publication that may supersede it on the date
18 that the judgment is entered.

19 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
20 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
21 shall be applied to the penalty obligation.

22 IT IS FURTHER ORDERED, that if any Defaulting Respondent fails to comply with this
23 order, the Commission may bring further legal proceedings against that Respondent, including
24 application to the superior court for an order of contempt.

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IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN BURNS


COMMISSIONER DUNN

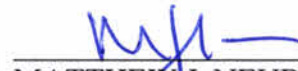

COMMISSIONER TOBIN


COMMISSIONER KENNEDY


COMMISSIONER OLSON



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT,
Executive Director of the Arizona Corporation Commission,
have hereunto set my hand and caused the official seal of the
Commission to be affixed at the Capitol, in the City of Phoenix,
this 26 day of April, 2019.


MATTHEW J. NEUBERT
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Kacie Cannon, ADA Coordinator,
voice phone number (602) 542-3931, e-mail kcannon@azcc.gov.

(JDB)

SERVICE LIST FOR: BAIC, Inc. et al., Docket No. S-21044A-18-0071

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SoBell Corp
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700 North Street
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Jackson, Mississippi 39205-0136

SoBell Corp
1000 Highland Colony Park, Suite 5203
Ridgeland, Mississippi 39157

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2 c/o Andrew Gamber
3 742 County Road 464
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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2
3 COMMISSIONERS

4 ROBERT "BOB" BURNS - Chairman
5 ANDY TOBIN
6 BOYD DUNN
7 SANDRA D. KENNEDY
8 JUSTIN OLSON

9 In the matter of:

10 BAIC, Inc., a Texas for-profit corporation,
11 SoBell Corp, a Mississippi for-profit corporation,
12 Andrew Gamber, an Arkansas resident,
13 Mark Corbett, a California resident,
14 Upstate Law Group, LLC, a South Carolina
15 limited liability company,
16 Candy Kern-Fuller, a South Carolina resident,
17 Smith & Cox, LLC (CRD #149088) an Arizona
18 limited liability company,
19 William Andrew Smith (CRD #5638821) and
20 Kimberly Ann Smith, husband and wife,
21 Christopher Spence Cox (CRD #5639015) and
22 Beth Cox, husband and wife,
23 Respondents.

DOCKET NO. S-21044A-18-0071

**CERTIFICATION OF SERVICE OF
PROPOSED OPEN MEETING
AGENDA ITEM**

24 On this 9th day of April, 2019, the foregoing document was filed with Docket Control
25 as a Securities Division Memorandum & Proposed Order, and copies of the foregoing were mailed
26 on behalf of the Securities Division to the following who have not consented to email service. On
this date or as soon as possible thereafter, the Commission's eDocket program will automatically
email a link to the foregoing to the following who have consented to email service.

1 Mark Corbett
2 1611 Gateway Place
3 Rancho Mission Viejo, CA 92694

4 Andrew Gamber
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6 Jonesboro, Arkansas 72404

7 BAIC, Inc.
8 c/o Corporation Service Company dba CSC-Lawyers Incorporating Service Company
9 211 E. 7th Street
10 Austin, Texas 78701

11 SoBell Corp
12 c/o Secretary of State of Mississippi
13 700 North Street
14 Post Office Box 136
15 Jackson, Mississippi 39205-0136

16 SoBell Corp
17 1000 Highland Colony Park, Suite 5203
18 Ridgeland, Mississippi 39157

19 SoBell Corp
20 c/o Andrew Gamber
21 742 County Road 464
22 Jonesboro, Arkansas 72404

23 **Consented to Service by Email**

24 Robert B. Zelms
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By: 